APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/534,592	03/27/2000	Rabindranath Dutta	AUS000003US1	4528

45502	7590	12/30/2004

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EXAMINER
NGUYEN, THU HA T

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	**Applicant(s)**
Office Action Summary		09/534,592	DUTTA, RABINDRANATH
		Examiner	**Art Unit**	
		Thu Ha T. Nguyen	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 October 2004* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-24* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-24* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
         application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

   a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)   4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)   5)☐ Notice of Informal Patent Application (PTO-152)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .   6)☐ Other: .

DETAILED ACTION

1.   Claims **1-24** are presented for examination.

Response to Arguments

2.   Applicant's arguments filed October 12, 2004 have been fully considered but they are not persuasive because of the following reasons:

3.   Applicant argues that Prior Art does not teach or suggest the step of "determining whether a client's request to receive a file from a content server originated as a reference from the load distribution server **OR** as a reference from the content server itself".

Before addressing the argument, the Examiner submits that the language of the limitation cited in the quotation "*as a reference from the load distribution server* **OR** *as a reference from the content server itself*" containing the conjunction **OR** therein, hence, in this response and also in the previous action, the limitation cited in the quotation is given a reasonable interpretation as *determining whether a client's request to receive a file from a content server originated as a reference from the content server itself*.

Buckland teaches a client 206 sends a request to the first network site 200 *(i.e., content server)* in step 300. Then, the process continues to step 302 to determine if the request includes a first cookie site from the first network site 200, wherein as is well-known in the art that the cookie may be included in the request by the client browser 210, if the client browser 210 had accessed the first network site 200 at some earlier time *(i.e., determine whether the request originated as a reference from content server)* [see Buckland, figure 3, col. 6, lines 5-15].

Therefore, Examiner asserts that Buckland does teach the step of determining whether a client's request to receive a file from a content server originated as a reference from the content server itself as recited and explained above.

4.   Applicant argues that Buckland does not teach or suggest the feature of "sending to the client a file requesting that the client contact the load distribution server".

In response to Applicant's argument, Examiner asserts that Buckland does teach determining that the client's request does not include a first cookie site (*i.e., a reference from content server*), and then sending to the client 206 a first message includes a "find-user" command (*i.e., a file requesting*) to contact another server (the control site 207) [see Buckland, col. 6, lines, 25-50].

5.   Applicant argues that Brendel does not teach or suggest any part of "response to determining that the client's request to receive the file from the content server did not originate as the reference from the load distribution server or as the reference from the content server itself, sending to the client a file requesting that the client contact the load distribution server". In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

6.   Applicant argues that neither Buckland nor Brendel teaches or suggests "response to determining that the client's request to receive the file from the content server did not originate as the reference from the load distribution server or as the

reference from the content server itself, sending to the client a file requesting that the client contact the load distribution server". Examiner asserts that Buckland does teach determining that the client's request does not include a first cookie site (*i.e., a reference from content server*), and then sending to the client 206 a first message includes a "find-user" command (*i.e., a file requesting*) to contact another server (the control site 207) [see Buckland, col. 6, lines, 25-50].

Buckland does implicitly teach sending a first message (i.e., a file requesting) to the client to contact another server (control network site 207). However, Buckland does not specially disclose a load distribution server.

Brendel, in the related prior art, teaches a load balancer 70 in the server 56 (figure 8, col. 10, lines 38-53). One of ordinary skill in the Data Processing art would have motivation to modify server (56) having load balancer (70), disclosed by Brendel, into control network site (207), as disclosed by Buckland because it would provide an efficient communications system that improve to avoid data bottleneck and reduce traffic load between servers.

7.   Applicant argues that there is no specific teaching of a motivation to combine in claim 1. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir.

1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the reason to incorporate server (56) having load balancer (70), disclosed by Brendel, into control network site (207), as disclosed by Buckland because it would provide an efficient communications system that improve to avoid data bottleneck and reduce traffic load between servers (see Brendel, col. 5, lines 55-col. 6, lines 5).

8.   Applicant argues that there is no specific teaching of a motivation to combine claims 4-6. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious that the conventional redirect request/URL is used when a user experiences a redirect from one page to another by asking the user to click on a link, update bookmark or by means of automatic redirection to another site or URL that has changed or moved (see REDIRECT definition in dictionary [netlingo.com]). Therefore, it is obvious that redirect URL usually can notify user the change of page or URL and optionally user can update bookmark as user desired to do so. It would have been obvious to one skill in the art at the time of the invention was made to incorporate a redirection URL, as disclosed by Subramaniam into the teaching of Buckland and Brendel to include a means to update bookmark to include the load distribution server it

would provide an efficient communications system that can keep track and notify redirecting/changing/ moving of URLs for a Web site so that the user can be notified and update bookmark of the changed URL (see Subramaniam, col. 7, lines 10-27).

9.   As a result, cited prior arts do disclose a system and method of preventing a client from directly contacting a server that is protected by a load distribution server from an overload of traffic, as broadly claimed by the Applicant. Applicant clearly has still failed to identify specific claim limitations that would define a clearly patentable distinction over prior arts.

10.   Therefore, the examiner asserts that cited prior arts teach or suggest the subject matter broadly recited in independent claims 1, 9, and 17. Claims 2-8, 10-16 and 18-24 are also rejected at least by virtue of their dependency on independent claims and by other reasons set forth in the previous office action. Accordingly, claims 1-24 are rejected.

Claim Rejections - 35 USC § 103

11.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12.   Claims 1-3, 7-11, 15-19 and 23-24 are rejected under 35 U.S.C. § 103

(a) as being unpatentable over **Buckland** U.S. Patent No. **5,999,971**, in view of

Brendel et al., (hereinafter Brendel) U.S. Patent No. **5,774,660.**

13.   ʻAs to claim 1, **Buckland** teaches the invention substantially as claimed,

comprising a method of:

determining whether a client's request to receive a file from a content server

originated as a reference from the load distribution server or as a reference from the

content server itself (abstract, figures 2, 3, col. 2, lines 15-32, col. 6, lines 1-24 [a client

206 sends a request to the first network site 200 *(i.e., content server)* in step 300.

Then, the process continues to step 302 to determine if the request includes a first

cookie site from the first network site 200, wherein as is well-known in the art that the

cookie may be included in the request by the client browser 210, if the client browser

210 had accessed the first network site 200 at some earlier time *(i.e., determine

whether the request originated as a reference from content server)* [see Buckland,

figure 3, col. 6, lines 5-15]); and

responsive to determining that the client's request to receive the file from the

content server did not originate as the reference from the load distribution server or as

the reference from the content server itself, sending to the client a file requesting that

the client contact the load distribution server (abstract, figures 2-3, col. 6, lines 25-37

[determining that the client's request does not include a first cookie site *(i.e., a reference

from content server)*, then sending to the client 206 a first message includes a "find-

user" command (*i.e., a file requesting*) to contact another server (the control site 207)

[see Buckland, col. 6, lines, 25-50]]).

Buckland does implicitly teach sending a first message (i.e., a file requesting) to

the client to contact another server (control network site 207). However, Buckland does

not specially disclose a load distribution server.

Brendel, in the related prior art, teaches a load balancer 70 in the server 56

(figure 8, col. 10, lines 38-53). It would have been obvious to one of ordinary skill in the

Data Processing art at the time of the invention was made to have motivation to modify

server (56) having load balancer (70), disclosed by **Brendel**, into control network site

(207), as disclosed by **Buckland** to have a load distribution server because it would

provide an efficient communications system that improve to avoid data bottleneck and

reduce traffic load between servers (see Brendel, col. 5, lines 55-col. 6, lines 5).

14.   As to claim 2, **Buckland** teaches the invention substantially as claimed,

further comprising: responsive to determining that the request to receive the file from

the content server did originate as the reference from the load distribution server or as

the reference from the content server itself, sending to the client the file requested

(abstract, col. 6, lines 25-37).

15.   As to claim 3, **Buckland** teaches the invention substantially as claimed,

further comprising: including in the file requesting that the client contact the load

distribution server a means by which the client may directly contact the load distribution server through an initiative of a user of the client (figures 2-3, col. 6, lines 25-37).

16.   As to claim 7, **Buckland** teaches the invention substantially as claimed, further comprising: including in the file requesting that the client contact the load distribution server a means by which the client will contact the load distribution server without intervention of the user (figures 2-3, col. 6, lines 35-67). **Buckland** teaches that a redirect command (i.e. file requesting) automatically sends to browser and instructs control network site (207) to process the command and sends it to network site (200, 202, 204). It would have been obvious to one skill in the art that the redirect command automatically instructs browser to contact control network site without user intervention.

17.   As to claim 8, **Buckland** teaches the invention substantially as claimed, further comprising: including in the file requesting that the client contact the load distribution server a means by which to allow the user of the client sufficient time to read and react to the file requesting that the user of the client contact the load distribution server before contact with the load distribution server is established without intervention of the user (figures 2-3, col. 6, lines 35-67). It would been obvious to one of ordinary skill in the art that when a user experiences a redirect from one page to another by asking the user to click on a link or by means of automatic redirection. It may leave a page on server to notify user whoever access to that page that the name has changed

or moved so that means it has to give the user sufficient time to read and react with that

notify.

18.   As to claim 9, **Buckland** teaches the invention substantially as claimed,

including a computer program product comprising:

instructions for determining whether a client's request to receive a file from a

content server originated as a reference from the load distribution server or as a

reference from the content server itself (abstract, figure 2, col. 2, lines 15-32, col. 6,

lines 1-24 [a client 206 sends a request to the first network site 200 *(i.e., content server)*

in step 300. Then, the process continues to step 302 to determine if the request

includes a first cookie site from the first network site 200, wherein as is well-known in

the art that the cookie may be included in the request by the client browser 210, if the

client browser 210 had accessed the first network site 200 at some earlier time *(i.e.,*

determine whether the request originated as a reference from content server) [see

Buckland, figure 3, col. 6, lines 5-15); and

instructions for, responsive to determining that the client's request to receive the

file from the content server did not originate as the reference from the load distribution

server or as the reference from the content server itself, sending to the client a file

requesting that the client contact the load distribution server (abstract, figures 2-3, col.

6, lines 25-37 [Buckland does teach determining that the client's request does not

include a first cookie site *(i.e., a reference from content server)*, then sending to the

client 206 a first message includes a "find-user" command (*i.e., a file requesting*) to

contact another server (the control site 207) [see Buckland, col. 6, lines, 25-50]]).

Buckland does implicitly teach sending a first message (i.e., a file requesting) to

the client to contact another server (control network site 207). However, Buckland does

not specially disclose a load distribution server.

Brendel, in the related prior art, teaches a load balancer 70 in the server 56

(figure 8, col. 10, lines 38-53). It would have been obvious to one of ordinary skill in the

Data Processing art at the time of the invention was made to have motivation to modify

server (56) having load balancer (70), disclosed by **Brendel**, into control network site

(207), as disclosed by **Buckland** to have a load distribution server because it would

provide an efficient communications system that improve to avoid data bottleneck and

reduce traffic load between servers (see Brendel, col. 5, lines 55-col. 6, lines 5).

19.   As to claim 17, **Buckland** teaches the invention substantially as claimed,

including a system comprising:

means for determining whether a client's request to receive a file from a content

server originated as a reference from the load distribution server or as a reference from

the content server itself (abstract, figure 2, col. 2, lines 15-32, col. 6, lines 1-24 [a client

206 sends a request to the first network site 200 (*i.e., content server*) in step 300.

Then, the process continues to step 302 to determine if the request includes a first

cookie site from the first network site 200, wherein as is well-known in the art that the

cookie may be included in the request by the client browser 210, if the client browser

210 had accessed the first network site 200 at some earlier time *(i.e., determine whether the request originated as a reference from content server)* [see Buckland, figure 3, col. 6, lines 5-15]]);

means for, responsive to determining that the client's request to receive the file from the content server did not originate as the reference from the load distribution server or as the reference from the content server itself, sending to the client a file requesting that the client contact the load distribution server (abstract, figures 2-3, col. 6, lines 25-37 [Buckland does teach determining that the client's request does not include a first cookie site *(i.e., a reference from content server)*, then sending to the client 206 a first message includes a "find-user" command *(i.e., a file requesting)* to contact another server (the control site 207) [see Buckland, col. 6, lines, 25-50]]).

Buckland does implicitly teach sending a first message (i.e., a file requesting) to the client to contact another server (control network site 207). However, Buckland does not specially disclose a load distribution server.

Brendel, in the related prior art, teaches a load balancer 70 in the server 56 (figure 8, col. 10, lines 38-53). It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to have motivation to modify server (56) having load balancer (70), disclosed by **Brendel**, into control network site (207), as disclosed by **Buckland** to have a load distribution server because it would provide an efficient communications system that improve to avoid data bottleneck and reduce traffic load between servers (see Brendel, col. 5, lines 55-col. 6, lines 5.

20.   Claims 10-11, 15-16, 18-19, and 23-24 have similar limitations as claims

2-3, and 7-8; therefore, they are rejected under the same rationale.

21.   Claims 4-6, 12-14, and 20-22 are rejected under 35 U.S.C. § 103 (a) as

being unpatentable over **Buckland and Brendel**, in view of **Subramaniam et al.,**

(hereinafter Subramaniam) U.S. Patent No. **6,640,302**.

22.   As to claim 4, **Buckland and Brendel** teach the step of offering in the file

requesting that the client contact the load distribution server as substantially claimed in

claim 1, above. However, **Buckland and Brendel** does not explicitly teach a means to

update a bookmark file to include the load distribution server. **Subramaniam** teaches a

redirect request sends from target server 104 through external client 112 to border

server 106 and has conventional capabilities to automatically redirect client when a web

site has moved, that is, the URL for the web site has changed to another URL ([*i.e.,*

bookmark file includes the load distribution server] (figure 2, col. col. 6, lines 47-col. 8,

lines 28). It would have been obvious that the conventional redirect request/URL is

used when a user experiences a redirect from one page to another by asking the user

to click on a link, update bookmark or by means of automatic redirection to another site

or URL that has changed or moved (see REDIRECT definition in dictionary

[netlingo.com]). Therefore, it is obvious that redirect URL usually can notify user the

change of page or URL and optionally user can update bookmark as user desired to do

so. It would have been obvious to one skill in the art at the time of the invention was

made to incorporate a redirection URL, as disclosed by Subramaniam into the teaching

of Buckland and Brendel to include a means to update bookmark to include the load

distribution server it would provide an efficient communications system that can keep

track and notify redirecting/changing/ moving of URLs for a Web site so that the user

can be notified and update bookmark of the changed URL (see Subramaniam, col. 7,

lines 10-27).

23.   As to claim 5, **Buckland and Brendel** teach the step of offering in the file

requesting that the client contact the load distribution server as substantially claimed in

claim 1, above. However, **Buckland and Brendel** does not explicitly teach a means to

update the bookmark file to exclude the content server. **Subramaniam** teaches a

conventional redirect request that when a user experiences a redirect from one page to

another by asking the user to click on a link, update bookmark or by means of automatic

redirection to a page that has changed/moved (i.e. load distribution server) and not the

previous page (figure 2, col. col. 6, lines 47-col. 8, lines 28). It would have been

obvious to one of ordinary skill in the Data Processing art at the time of the invention to

combine the teachings of **Buckland, Brendel and Subramaniam** to have the same

motivation as set forth in claim 4.

24.   As to claim 6, **Subramaniam** teaches the invention substantially as

claimed further comprising the means to update the client's bookmark file to include the

load distribution server a means to update the bookmark file to exclude the protected

server (figure 2, col. col. 6, lines 47-col. 8, lines 28). It would have been obvious to one

of ordinary skill in the Data Processing art at the time of the invention to combine the

teachings of **Buckland, Brendel and Subramaniam** to have the same motivation as

set forth in claim 4.

25.   Claims 12-14 and 20-22 have similar limitations as claims 4-6 therefore;

they are rejected under the same rationale.

Conclusion

26.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

27.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Thu Ha Nguyen, whose telephone number is (571)

272-3989. The examiner can normally be reached Monday through Friday from 8:00

AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Hosain T. Alam, can be reached at (571) 272-3978.

Any inquiry of a general nature of relating to the status of this application should

be directed to the Group receptionist whose telephone number is (703) 305-9600.

The fax phone numbers for the organization where this application or proceeding

is assigned are 703-872-9306 for regular communications.

Thu Ha Nguyen

December 16, 2004

HOSAIN ALAM
SUPERVISORY PATENT EXAMINER